

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AZBER AZHER ANSAR, M.D.

Physician and Surgeon's Certificate No.
A84893

Respondent.

Case No. 16-2007-181365

OAH No. N2007050901

DECISION AFTER NONADOPTION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on August 2, 2007. Jane Zack Simon, Deputy Attorney General, represented complainant. Respondent was present and represented himself.

Submission of the matter was deferred to August 13, 2007 for receipt of further evidence concerning the status of respondent's medical license in Ohio and the matter was submitted on that date. On August 17, 2007, the Administrative Law Judge issued her Proposed Decision in this matter.

On November 7, 2007, the Medical Board of California (Board) issued an Order of Non-Adoption of the Proposed Decision. On December 24, 2007, the Board issued a Notice of Hearing for Oral Argument, which set January 31, 2008, as the date for oral argument.

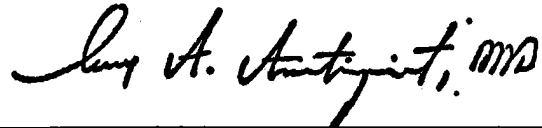
Having received oral and written argument on this matter, and the time for filing written and oral argument having expired, and having reviewed the entire record, including the transcripts, the Board hereby makes and enters its decision after nonadoption as follows:

ORDER

The Medical Board of California hereby adopts the attached Proposed Decision of the Administrative Law Judge dated August 17, 2007 as its decision in this matter.

This decision shall become effective at 5:00 p.m. on March 21, 2008.

IT IS SO ORDERED THIS February 20, 2008.

A handwritten signature in black ink, reading "Cesar A. Aristeiguieta, M.D." with a stylized flourish at the end.

Cesar A. Aristeiguieta, M.D., F.A.C.E.P.
Chair
Panel A
Medical Board of California

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)	OAH No: N2007050901
)	
AZBER AZHER ANSAR, M.D.)	Case No: 16-2007-181365
)	
Physician's & Surgeon's)	
Certificate No: A 84893)	
)	
_____ Respondent.)	

**ORDER OF NON-ADOPTION
OF PROPOSED DECISION**

The Proposed Decision of the Administrative Law Judge in the above-entitled matter has been **non-adopted**. The Medical Board of California, Division of Medical Quality, will decide the case upon the record, including the transcript and exhibits of the hearing, and upon such written argument as the parties may wish to submit, including in particular, argument directed to the question of whether the proposed order should be modified. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

To order a copy of the transcript, please contact California Reporting, LLC, Attention: Tasha Sanbrayioo, 52 Longwood Drive, San Rafael, CA 94901, telephone (415) 457-4417 or fax (415) 454-5626.

To order a copy of the exhibits, please contact the Transcript Clerk at the Office of Administrative Hearings, 1515 clay street, Suite 206, Oakland, CA 94612, telephone (510) 622-2722.

In addition to written argument, oral argument will be scheduled if any party files with the Division within 20 days from the date of this notice a written request for oral argument. If a timely request is filed, the Division will serve all parties with written notice of the time, date and place for oral argument. Please do not attach to your written argument any documents that are not part of the record as they cannot be considered by the Panel.

Please remember to serve the opposing party with a copy of your written argument and any other papers you might file with the Division. The mailing address of the Division is as follows:

Medical Board of California
Division of Medical Quality
Attention: Arlene Krynski
1426 Howe Avenue, Suite 54
Sacramento, CA 95825-3236
Telephone: (916) 263-2451

Dated: November 7, 2007



Cesar Aristeiguieta, M.D. Panel A Chair
Division of Medical Quality

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AZBER AZHER ANSAR, M.D.,

Case No. 16-2007-181365

Physician and Surgeon's Certificate No.
A84893

OAH No. N2007050901

Respondent.

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on August 2, 2007.

Jane Zack Simon, Deputy Attorney General, represented complainant.

Respondent was present and represented himself.

Submission of the matter was deferred to August 13, 2007 for receipt of further evidence concerning the status of respondent's medical license in Ohio. Respondent's license in Ohio expired and he is required to submit an application for renewal. Ohio has not acted on that renewal. The matter was submitted on August 13, 2007.

FACTUAL FINDINGS

1. David T. Thornton made the accusation in his official capacity as the Executive Director of the Medical Board of California (Board).

2. On October 10, 2003, Physician and Surgeon's Certificate No. A84893 was issued by the Board to Azber Azher Ansar, M.D. (respondent). Respondent's certificate has an expiration date of October 31, 2007, and was suspended on May 9, 2007, pursuant to Business and Professions Code section 2310, subdivision (a) (suspension/revocation in another jurisdiction).

3. On January 10, 2007, the State Medical Board of Ohio issued an Entry of Order, suspending respondent's license to practice medicine in the State of Ohio for a period

of six months. The Ohio Board made factual findings that on December 12, 2005, respondent was convicted of a misdemeanor charge of falsely reporting a crime in Minnesota.¹ The facts and circumstances underlying the criminal conviction were that respondent was in a bitter custody and divorce dispute with his estranged wife. In an effort to retaliate against her for filing a report accusing him of mistreating their four-year-old child, respondent purchased a knife, confronted his wife, stabbed himself with the knife (in the presence of the child) and then falsely reported to the police that his wife had stabbed him. Respondent took this action with the intention that his wife would be arrested and charged with a crime, and to use this as a means to obtain an advantage in a pending child custody and divorce proceeding.

Respondent testified that he knew he had done something wrong and within five minutes of making the false report to the police, he recanted.

4. Respondent does not believe that his conviction bears a substantial relationship to the duties, qualification and functions of a physician and surgeon. However, the conviction involves dishonesty and is a crime involving moral turpitude. Honesty is an important duty of a physician and surgeon. This conviction reflects extremely poor judgment and irrational behavior.

5. Respondent presented a character letter from a registered nurse that works at Mapplewood Community Based Outpatient Clinic for the Department of Veterans Affairs. She has worked with respondent for four years. She states that respondent is well respected in the community and has strong relationships with patients and staff. She does not mention respondent's conviction.

6. Respondent presented a psychological evaluation dated August 20, 2005 to September 20, 2005. This evaluation predates respondent's conviction, but postdates the incident, which occurred June 30, 2005. This evaluation was given little weight by the Ohio Medical Board as one-sided and self-serving. Respondent did not present a current psychological evaluation.

7. Respondent is licensed in 16 states. He is employed at a V.A. hospital in Minnesota. He did not present any character evidence from his employer or other physicians with whom he works.

8. Complainant recommends revocation stayed for five years upon terms and conditions that include a full psychological evaluation as a condition precedent to practice and psychological treatment as recommended by the evaluation.

¹ The conviction for committing this crime, regardless of the action taken by another state, constitutes grounds for disciplinary action in California.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Finding 3, cause for disciplinary action exists pursuant to Business and Professions Code sections 2305 and 141, subdivision (a) (unprofessional conduct based on discipline in another jurisdiction).

2. The matters set forth in Findings 4 through 8 have been considered in making the following order.

ORDER

Certificate No. A84893 issued to respondent Azber Azher Ansar, M.D. is revoked. However, revocation stayed and respondent is placed on probation for five years upon the following terms and conditions:

1. Actual Suspension - As part of probation, respondent is suspended from the practice of medicine for 90 days beginning the sixteenth (16th) day after the effective date of this decision.
2. Psychiatric Evaluation - Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Division or its designee, respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Division-appointed board certified psychiatrist, who shall consider any information provided by the Division or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Division or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Division or its designee. Failure to undergo and complete a psychiatric evaluation and psychological testing, or comply with the required additional conditions or restrictions, is a violation of probation.

Respondent shall not engage in the practice of medicine until notified by the Division or its designee that respondent is mentally fit to practice medicine safely. The period of time that respondent is not practicing medicine shall not be counted toward completion of the term of probation.

3. Psychotherapy - Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Division or its designee for prior approval the

name and qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Division or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Division or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Division or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent. Respondent shall have the treating psychotherapist submit quarterly status reports to the Division or its designee. The Division or its designee may require respondent to undergo psychiatric evaluations by a Division-appointed board certified psychiatrist.

If, prior to the completion of probation, respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Division shall retain continuing jurisdiction over respondent's license and the period of probation shall be extended until the Division determines that respondent is mentally fit to resume the practice of medicine without restrictions. Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

Failure to undergo and continue psychotherapy treatment, or comply with any required modification in the frequency of psychotherapy, is a violation of probation.

4. Notification - Prior to engaging in the practice of medicine the respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Division or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

5. Supervision of Physician Assistants - During probation, respondent is prohibited from supervising physician assistants.

6. Obey All Laws - Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.
7. Quarterly Declarations - Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.
8. Probation Unit Compliance - Respondent shall comply with the Division's probation unit. Respondent shall, at all times, keep the Division informed of respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Division or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b). Respondent shall not engage in the practice of medicine in respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's license.

Respondent shall immediately inform the Division or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

9. Interview with the Division or its Designee - Respondent shall be available in person for interviews either at respondent's place of business or at the probation unit office, with the Division or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.
10. Residing or Practicing Out-of-State - In the event respondent should leave the State of California to reside or to practice respondent shall notify the Division or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Division or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary

or permanent residence or practice outside California will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically cancelled if respondent's periods of temporary or permanent residence or practice outside California totals two years. However, respondent's license shall not be cancelled as long as respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

Any respondent disciplined under B&P Code sections 141 subdivision (a) or 2305 (another state discipline) may petition for modification or termination of penalty: 1) if the other state's discipline terms are modified, terminated or reduced; and 2) if at least one year has elapsed from the effective date of the California discipline.

11. Failure to Practice Medicine - California Resident - In the event respondent resides in the State of California and for any reason respondent stops practicing medicine in California, respondent shall notify the Division or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Division or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

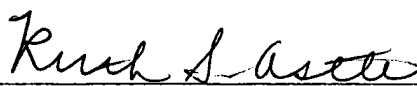
Respondent's license shall be automatically cancelled if respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

12. Completion of Probation - Respondent shall comply with all financial obligations (e.g. probation costs) not later than 120 calendar days prior to the completion of probation. Upon completion successful of probation, respondent's certificate shall be fully restored.
13. Violation of Probation - Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
14. License Surrender - Following the effective date of this Decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of respondent's license. The Division reserves the right to evaluate respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Division or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action.

If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

15. Probation Monitoring Costs - Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Division, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Division or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

DATED: 8/17/07



RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 29, 2007
BY Gerry Cummins ANALYST

EDMUND G. BROWN JR., Attorney General
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Attorneys for Complainant

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:) Case No. 16-2007-181365

AZBER AZHER ANSAR, M.D.,)
P.O. Box 111097)
Saint Paul, MN 55111-1097)
Physician and Surgeon's)
Certificate No. A84893)

Respondent.)

The Complainant alleges:

PARTIES

1. Complainant David T. Thornton is the Executive Director of the Medical Board of California (hereinafter the "Board") and brings this accusation solely in his official capacity.

2. On or about October 10, 2003, Physician and Surgeon's Certificate No. A84893 was issued by the Board to Azber Azher Ansar, M.D. (hereinafter "respondent"). Respondent's certificate has an expiration date of October 31, 2007, and was SUSPENDED on

1 May 9, 2007 pursuant to Business and Professions Code section 2310(a).

2 **JURISDICTION**

3 3. This accusation is brought before the Division of Medical Quality of the
4 Medical Board of California, Department of Consumer Affairs (hereinafter the "Division"),
5 under the authority of the following sections of the California Business and Professions Code
6 (hereinafter "Code") and/or other relevant statutory enactment:

7 A. Section 2227 of the Code provides in part that the Board may revoke,
8 suspend for a period of not to exceed one year, or place on probation, the license of any
9 licensee who has been found guilty under the Medical Practice Act, and may recover the
10 costs of probation monitoring if probation is imposed.

11 B. Section 2305 of the Code provides, in part, that the revocation,
12 suspension, or other discipline, restriction or limitation imposed by another state upon a
13 license to practice medicine issued by that state, that would have been grounds for
14 discipline in California under the Medical Practice Act, constitutes grounds for discipline
15 for unprofessional conduct.

16 C. Section 141 of the Code provides:

17 "(a) For any licensee holding a license issued by a board under the
18 jurisdiction of a department, a disciplinary action taken by another state, by any agency of
19 the federal government, or by another country for any act substantially related to the
20 practice regulated by the California license, may be ground for disciplinary action by the
21 respective state licensing board. A certified copy of the record of the disciplinary action
22 taken against the licensee by another state, an agency of the federal government, or by
23 another country shall be conclusive evidence of the events related therein.

24 "(b) Nothing in this section shall preclude a board from applying a
25 specific statutory provision in the licensing act administered by the board that provides
26 for discipline based upon a disciplinary action taken against the licensee by another state,
27 an agency of the federal government, or another country."

4. Respondent is subject to discipline within the meaning of section 141 and is guilty of unprofessional conduct within the meaning of section 2305 as more particularly set forth herein below.

FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

5. On or about January 10, 2007, the State Medical Board of Ohio issued an Entry of Order, suspending respondent's license to practice medicine in the State of Ohio for a period of six months. The Ohio Board made factual findings that on December 12, 2005 respondent was convicted of a misdemeanor charge of falsely reporting a crime in Minnesota. The circumstances underlying the criminal conviction were as follows:

Respondent was in a bitter custody and divorce dispute with his estranged wife. In an effort to retaliate against her for filing a report accusing him of mistreating their four year old child, respondent purchased a knife, confronted his wife, stabbed himself with the knife (in the presence of the child) and then falsely reported to the police that his wife had stabbed him. Respondent took this action with the intention that his wife would be arrested and charged with a crime, and to use this as a means to obtain an advantage in the pending child custody and divorce proceedings.

Attached hereto as Exhibit A are true and correct copies of the Entry of Order and the Report and Recommendation issued by the State Medical Board of Ohio.

6. Respondent's conduct and the action of the State Medical Board of Ohio as set forth in paragraph 5, above, constitute unprofessional conduct within the meaning of section 2305 and conduct subject to discipline within the meaning of section 141(a).

PRAYER

WHEREFORE, the complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Division issue a decision:

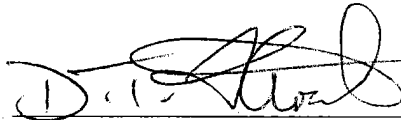
1. Revoking or suspending Physician and Surgeon's Certificate Number
A84893 heretofore issued to respondent Azber Azher Ansar, M.D.;

1 2. Revoking, suspending or denying approval of the respondent's authority to
2 supervise physician assistants;

3 3. Ordering respondent, if placed on probation, to pay the costs of probation
4 monitoring upon order of the Division; and

5 4. Taking such other and further action as the Division deems necessary and
6 proper.

7 DATED: May 29, 2007.

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11 **DAVID T. THORNTON**
12 Executive Director
13 Medical Board of California
14 Department of Consumer Affairs
15 State of California

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Complainant

Exhibit A

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

AZBER AZHER ANSAR, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 10, 2007.

Upon the Report and Recommendation of Christopher B. McNeil, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

SUSPENSION OF CERTIFICATE: The certificate of Azber Azher Ansar, M.D. to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of six months.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.

(SEAL)

Lance A. Talmage
Lance A. Talmage, M.D. *rw*
Secretary

January 10, 2007
Date

STATE MEDICAL BOARD
OF OHIO
2006 DEC -7 A 9:46

**REPORT AND RECOMMENDATION
IN THE MATTER OF AZBER AZHER ANSAR, M.D.**

The Matter of Azber A. Ansar, M.D. was heard by Christopher B. McNeil, Esq., Hearing Examiner for the State Medical Board of Ohio, on October 30, 2006.

INTRODUCTION

I. Basis for Hearing

- A. In a letter dated August 9, 2006, the State Medical Board of Ohio [Board] notified Azber Azher Ansar, M.D., that the Board intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate Dr. Ansar's certificate to practice medicine and surgery, or to reprimand him or place him on probation, for one or more of the reasons set forth in the letter. The Board based its proposed action on allegations that Dr. Ansar entered "[a] plea of guilty to . . . a misdemeanor involving moral turpitude" as that clause is used in § 4731.22(B)(13) of the Ohio Revised Code. Accordingly, the Board advised Dr. Ansar of his right to request a hearing in this matter. (See State's Exhibit [St. Ex.] 1A)
- B. On September 8, 2006, the Board received a written hearing request submitted by Dr. Ansar. (St. Ex. 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Barbara Pfeiffer and Karen Unver, Assistant Attorneys General.
- B. On behalf of the Respondent: Azber A. Ansar, M.D., *pro se*.

EVIDENCE EXAMINED

I. Testimony Heard

Dr. Ansar testified on his own behalf.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1F: Procedural exhibits.
2. State's Exhibit 2: Police Incident Report re: June 30, 2005, incident.
3. State's Exhibit 3: June 30, 2005, Complaint for filing a false police report.
4. State's Exhibit 4: Petition to enter plea of guilty.
5. State's Exhibit 5: Sentencing order.

B. Presented by the Respondent

1. Respondent's Exhibit A: September 20, 2005, Report of Dr. Plaud. *SEALED EXHIBIT*
2. Respondent's Exhibit B: Child Custody Evaluation. *SEALED EXHIBIT*
3. Respondent's Exhibit C: SIRC Recommendation. *PROFFERED EXHIBIT*
4. Respondent's Exhibit D: August 15, 2006, letter to Dr. Ansar from Arizona Medical Board. *PROFFERED EXHIBIT*
5. Respondent's Exhibit E: July 26, 2006, letter to Dr. Ansar from Washington Department of Health. *PROFFERED EXHIBIT*
6. Respondent's Exhibit F: May 15, 2006, letter to Dr. Ansar from Iowa Board of Medical Examiners. *PROFFERED EXHIBIT*
7. Respondent's Exhibit G: Letter to Dr. Ansar from Illinois Department of Financial and Professional Regulation. *PROFFERED EXHIBIT*
8. Respondent's Exhibit H: February 16, 2006, letter to Dr. Ansar from Wisconsin Department of Regulation and Licensing. *PROFFERED EXHIBIT*
9. Respondent's Exhibit I: October 3, 2006, letter from Mary Swain.
10. Respondent's Exhibit J: October 2, 2006, letter from Linda Lund.

11. Respondent's Exhibit K and K-1: Post Commander's Distinguished Service Certificate and April 6, 2005, letter to Dr. Ansar from Sen. Mark Dayton.
12. Respondent's Exhibit L-1 through L-15: State medical licenses.
13. Respondent's Exhibit M: AMA Physician's Recognition Award.
14. Respondent's Exhibit N: American Board of Internal Medicine, Diplomate Certificate.
15. Respondent's Exhibit O: September 22, 2003, letter to Dr. Ansar from University of Minnesota.
16. Respondent's Exhibit P: California Medical Association Educational Certificate.
17. Respondent's Exhibit Q: four DVD disks: VA Daycare interaction.
PROFFERED EXHIBIT
18. Respondent's Exhibit R: Notice of Motion and Motion, with attachments, from which the Hearing Examiner received as a proffer only Respondent's Motion Exhibits E-1 through E-4 and F-1 and F2, due to the Examiner's finding that these are copies of documents that were not admissible during the hearing. In addition, the Hearing Examiner removed Respondent's Motion Exhibit J and placed it under seal, due to the finding that this is the same as Respondent's Exhibit A, which is in the record under seal.
19. Respondent's Exhibit S: Notice of Action by Department of Homeland Security, and Passport photocopies. *PROFFERED EXHIBIT*

DR. ANSAR'S MOTION FOR NO FURTHER ACTION

Shortly before the start of the evidentiary hearing, Dr. Ansar filed a motion in which he asked for an order that "no further action" be taken with respect to the charges now against him. (Resp. Ex. R) He cited as authority for this motion Rule 4731-13-36(G). This motion is without merit and is denied. The cited section provides that: "'No Further Action' means that the Board finds that a violation occurred but declines to impose any disciplinary sanction" and further provides that this kind of disposition may be appropriate "under circumstances where the Board finds that all necessary remedial measures have been completed by the certificate holder, future monitoring is unnecessary and reprimand is not warranted." For reasons set forth below, a sanction greater than a reprimand is warranted in this matter, rendering inapplicable the provisions of the cited Rule.

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation. Proffered evidence was preserved at the time of the evidentiary hearing and has not been considered in preparing this report.

Background

1. The Respondent, Dr. Azber Ansar, holds a certificate issued by the State Medical Board of Ohio to practice medicine and surgery under License Number 35.078745. (Respondent's Exhibit [Resp. Ex.] L) There is no evidence that the Board has previously had any occasion to consider any disciplinary charges against Dr. Ansar.
2. Dr. Ansar works for the Department of Veterans Affairs at the Minneapolis Veterans Administration Medical Center. (Tr. at 15) He has worked there for over three and a half years, and testified that he has never had any claims of malpractice or patient complaints against him. (Resp. Ex. R).
3. In addition to being licensed to practice medicine and surgery in Ohio, Dr. Ansar presented proof of his medical licensure in Nevada, Washington, Arizona, Utah, New Mexico, North Dakota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Minnesota, and the Commonwealth of the Northern Mariana Islands. Dr. Ansar also presented professional credentials, including a Physician's Recognition Award presented by the American Medical Association for continuing education, and a continuing education certificate awarded by the California Medical Association in September 2006 for participating in "Pain Management and End of Life Care in California's Regulatory Environment." (Tr. at 54-57, and Resp. Ex. L, L1-15, M, N, O, P and R)
4. In addition to working as a Staff Physician in the Department of Medicine at the Minneapolis V.A. Medical Center, where he carries a patient panel of 1,200 patients, since June 1, 2003, Dr. Ansar has held a faculty position at the University of Minnesota Medical School as an instructor in medicine, and has been involved in the training of medical students and resident physicians. He is board certified in internal medicine, and his current certification is in good standing through 2012. (Resp. Ex. R)
5. Dr. Ansar is a member in good standing of the American Medical Association and the American College of Physicians, and represents to the Board that he strictly abides by the AMA Code of Medical Ethics. (Resp. Ex. R)

June 2005 Incident

6. On June 30, 2005, a complaint against Dr. Ansar was filed in the First Judicial District Court in Dakota County, Minnesota, by an officer of the Eagan (Minnesota) Police Department. Dr. Ansar was charged with fifth degree domestic assault (a misdemeanor), and filing a false report (also a misdemeanor). (St. Ex. 3) The complaint was based upon an incident occurring at the home of Dr. Ansar's parents earlier that day. According to a written report prepared by Officer Judy Dretzke of the Eagan Police Department, police were dispatched to the home after receiving a call on 911, in which the caller claimed his wife had cut him with a knife and was still at the residence. When Officer Dretzke arrived at the scene, she found Dr. Ansar and his wife, Yasmeen Khan, M.D., and another male, standing in the driveway. Officer Dretzke asked where the knife was, and Dr. Khan indicated it was in the passenger seat of a Lexus in the driveway. (St. Ex. 2 at 3; and Tr. at 82 for the correct spelling of Dr. Khan's last name.)
7. With the assistance of another officer, Officer Dretzke separated the parties, and both Dr. Ansar and Dr. Khan gave tape-recorded statements describing what had transpired. Officer Dretzke wrote that, in Dr. Ansar's statement to her, he described the following:

Ansar advised that his wife and he had been separated for approximately six months and they had been taking turns keeping their four-year-old son. On this date, Ansar stated that it was his wife's turn to have their son for the evening but the day care that their son went to took a field trip to Como Park today at which time he went with them. Ansar then brought his son back to his house. Ansar stated that his wife called him very upset about him going to Como Park on this date when it was her day to be with him. Ansar advised that Khan stated she was coming over immediately to pick up their child. Ansar stated that this was sometime between 1700 and 1730 hours.

Ansar advised that Khan did arrive at approximately 1730 hours to pick up their son. Khan rang the doorbell of the front door at which time Ansar opened the screen door. Ansar advised that he observed a knife in Khan's right hand and that she stabbed him in his left arm with it. Ansar then immediately grabbed the knife and attempted to pull away at which time the knife went up his arm and then back down again causing a superficial laceration. I did observe the cut and puncture which had stopped bleeding at this time. HealthEast did respond and looked at the cut on Ansar's upper left arm. I also observed that the minor puncture and part of the cut was above the sleeve of the short sleeved t-shirt that Ansar was wearing. There was no damage or cut to the t-shirt. Ansar stated that he felt that it was just a superficial cut and that he did not need any medical attention. Ansar then signed a waiver provided by HealthEast stating that. HealthEast then left the scene. Ansar continued with his statement to me.

Ansar advised that after Khan had cut him, then she threw the knife into the driver's side window of her vehicle at which time he followed her to the car to prevent her from leaving. Ansar stated he grabbed her around the shoulder and arm area and escorted her back into the garage so she would not leave. Ansar made the comment that it may have appeared that he was dragging her, but he was only holding on to her. When asked if she had fallen on the ground or had been injured, Ansar stated that she had not been, nor did she fall. When asked if their four-year-old son had witnessed any of this, Ansar stated his son walked out of the front door after Khan had thrown the knife in the vehicle, but his son did see the blood on his arm and became very hysterical and screaming. I questioned Ansar about the accusation that his wife stated that he had stabbed himself. Ansar stated that this was not true, but his fingerprints would be on the handle of the knife because he had grabbed it when she stabbed him. When asked why he didn't keep a hold on the knife to take it away from her, Ansar stated that he was not afraid of her because she is so small and that the only way she was able to stab him was because it surprised him and he had not expected it.

(St. Ex. 2 at 3)

8. When questioned by another police officer, Dr. Ansar admitted his statements to Officer Dretzke were false. Officer Dretzke reported the following, after Dr. Ansar was questioned further about his claim that Dr. Khan stabbed him:

Ansar then advised that earlier this date [i.e., earlier on June 30, 2006], he had picked up a copy of the police report of an incident between him and his wife which occurred on [June 20, 2006]. When Ansar read the report, he stated he became very upset because there are accusations from his wife in the report stating that he had made threats to harm or kill her and her family. Ansar stated that he never made these threats. Ansar stated that Khan did respond on this date [June 30, 2006] to pick up their son. When Khan arrived at the residence, Ansar stated that he did take a knife out from the residence and place it in his right pants pocket. He then walked his son out to Khan's vehicle where she was parked in the driveway. Ansar placed his son in the back seat at which time he then took the knife out of his pocket and stabbed and cut himself in the left arm. Ansar then advised that he threw the knife through the front driver's window. Ansar did state that his son did see him cut himself. Ansar was then placed under arrest for filing a false police report.

(St. Ex. 2 at 4)

9. Although Dr. Ansar did not deny stabbing himself, he gave inconsistent testimony about his reasons for doing so. During cross-examination, Dr. Ansar was asked whether he bought the knife "with the purpose to kind of set your wife up," and he initially answered, "No, I didn't." He explained that he had bought the knife as part of a kitchen set earlier that day, with no plan or intention of setting up his wife. However, he gave a different answer when pressed. He admitted he had bought only one knife and that it did not match any of the other knives in the house. He admitted to putting the knife into his pocket and that, when his wife "came to pick up my son, when I was putting him in the car seat, that's when I cut my arm." When he was asked why he had put the knife in his pocket and then cut himself with it, Dr. Ansar answered: "Because, I guess, I wanted to kind of set her up." (Tr. at 61-64)

Conviction and Sentencing for the June 30, 2005, Incident

10. Dr. Ansar admitted that, based on the events that took place at his home on June 30, 2005, he was convicted of filing a false police report. (Tr. at 58) He said that, as part of a plea agreement, the prosecutor agreed to stay the adjudication of the domestic assault charge, and Dr. Ansar admitted to filing the false police report in June. Based on this agreement and after receiving Dr. Ansar's guilty plea to filing a false police report, the court imposed a one-year term of probation and required Dr. Ansar to attend a four-month domestic abuse program (which was administered on-line and which he says he has successfully completed). In addition, court documents note that there will also be a pre-sentence investigation report presented to the court after the report is completed in December 2006. (Tr. at 74-75; Resp. Ex. B at 8)
11. During the administrative hearing, Dr. Ansar denied that he took the actions on June 30, 2005, as a means of gaining an edge in the custody dispute that was then pending in court. However, given the evidence regarding the premeditation with which he carried out his plan, the highly contested custody proceedings that were then pending, and the attendant circumstances (including the fact that Dr. Ansar was angry at Dr. Khan for the claims she made in the June 20, 2005, police report), this denial lacks credibility.

December 2004 Incident

12. Dr. Ansar acknowledged that the 2005 incident was not the first time something like this happened. He explained that in December of 2004 he believed Dr. Khan had mistreated their son and he went to the police and reported the mistreatment. He said Dr. Khan then pleaded with Dr. Ansar to recant the charge because if he didn't, she would be deported (because her immigration file was pending and they were scheduled to meet with the Department of Homeland Security shortly thereafter). Dr. Ansar said he went back to the police in December to take the blame for making the false statement, so that Dr. Khan would not be deported. According to Dr. Ansar, two days later Dr. Khan got her green

card and told him she was filing for divorce, that she had just manipulated him in order to get the green card. (Tr. at 68-69)

Psychological Profile and Testing

13. Dr. Ansar testified that he is a "total tea-totaller" who has "never, ever used drugs or alcohol," and, according to the psychological evaluations presented to the Board, he "does not present any of the risk factors for engaging in violent behavior." (Tr. at 25)
14. In supporting his assertion that he presents no risk factors or other personality traits warranting Board attention, Dr. Ansar presented the report of Joseph J. Plaud, Ph.D., BCBA, Executive Director of Applied Behavioral Consultants, Inc., of Whitinsville, Massachusetts. Dr. Plaud is a licensed clinical psychologist and health service provider, and a board certified behavior analyst. Dr. Ansar said he commissioned this evaluation in August, 2005, because he was looking for a psychologist who could "administer [an] intense psychological battery of tests to me." Dr. Plaud's report is based on a clinical interview of Dr. Ansar, a record review using available records (including an investigation of fifth degree domestic assault and child neglect), a psychometric inventory administration consisting of five psychometric instruments, a psychosexual inventory administration consisting of three psychosexual instruments, and the Abel Assessment for Sexual Interest. (Resp. Ex. A at 2-3)
15. Dr. Ansar emphasized certain findings presented by Dr. Plaud. According to Dr. Plaud, and based on the results of the Psychopathic Checklist-Revised, Dr. Ansar's antisocial scores "fall in the bottom third of this scale, indicating that he does not share the traits of antisocial personalities to any significant degree and the likelihood of present criminal behavior is not significant when compared to others in incarcerated or forensic settings." (Tr. at 27)
16. Pointing to further findings in Dr. Plaud's report, Dr. Ansar observed that it includes a "very important finding" which states that "[f]ew, if any, indicators of repeated lying, deceit, or chronic inability to conform to society are present. A moral or ethical blunting is not evident. Dr. Ansar is capable of affection, sympathy, and remorse." Dr. Ansar "stresses the point that Respondent is capable of remorse, is morally responsible, and is an ethical person and does not have significant antisocial or criminal behavior." The report also concludes that Dr. Ansar "has above average judgment abilities," which means, according to Dr. Ansar, that his "thinking abilities are intact," rendering him "more than capable of practicing the art of medicine in all of the states he's licensed in." (Tr. at 25-29)
17. According to Dr. Ansar, results from the Multiphasic Sex Inventory, which is also a part of Dr. Plaud's report, include the finding that "[t]he level of Dr. Ansar's emotional

maturity indicates that he's generally capable of accepting responsibility for his actions. No evidence of any conduct, disorder pattern, or sociopathic behaviors is noted."

According to Dr. Ansar, this finding is "very important, because a person who can accept responsibility for his actions does know that his actions are morally wrong and that does not constitute moral turpitude." (Tr. at 25-26)

18. Dr. Ansar acknowledged that the personality inventories and assessments in Dr. Plaud's report were limited to responses he gave, and specifically that the report is not based on any interviews with other family members. (Tr. at 59)
19. In addition to the psychological inventories he commissioned and which are described above, Dr. Ansar also participated in evaluations in the course of the court's child custody determination, shown as Respondent's Exhibit B. Dr. Ansar drew the Board's attention to the findings that included results from the Personality Assessment Inventory, the California Psychological Inventory, the State-Trait Anger Expression Inventory 2, the Problem Experiences Checklist, and the Problem Behavior Inventory. Dr. Ansar notes that the evaluator found Dr. Ansar "appeared candid . . . with no attempts to present himself differently than actually the case." The evaluator found Dr. Ansar to be "socially competent and comfortable," and "supportive of rules and conventions," with "no indications of impulse control, anger control, or behavior problems." (Tr. at 30-32)
20. According to Dr. Ansar, the results of the child custody evaluation and the evaluations he himself commissioned, support his contention that "he's been adequately tested and his abstract thinking is intact. His judgment is intact. And he feels that he's morally conscious and he should not now be prosecuted if he's upholding the morals." (Tr. at 33) As will be discussed below, this claim is in part contradicted, however, by findings expressed by Scott Terhune, Ph.D., the principle author of the report shown as Respondent's Exhibit B.
21. According to Dr. Ansar, Dr. Terhune's report was prepared for use in the child custody proceeding. Dr. Terhune's report appears to have been based on interviews and observations of Dr. Khan, Dr. Ansar, their child, the director of their child's daycare center, a close friend and babysitter, and members of their immediate family, all taken between December 2005 and March 2006. It also includes the results of seven psychological assessment instruments. (Resp. Ex. B, at 1-2)
22. The record does not include a listing of Dr. Terhune's professional credentials. It appears, however, that the Dakota County court approved the report for use in the couple's child custody dispute; and it further appears that Dr. Ansar disagreed with some of the findings, after noting that he did not select Dr. Terhune - his wife did. (Tr. at 66)
23. In his report, Dr. Terhune notes that prior to submitting to the battery of tests administered by Dr. Terhune, Dr. Ansar self-commissioned the tests administered by Dr. Plaud in Massachusetts. Dr. Terhune also observed that Dr. Plaud may not have had much

information about the events that took place on June 30, 2005, and that this is significant in that it calls into question the weight that should be given to Dr. Plaud's report:

Dr. Ansar completed a psychological evaluation in Massachusetts with Dr. Plaud. It is clear that the evaluating psychologist had access to at least some records related to the 6.30.05 incident although the evaluation did not contain a synthesis or conceptualization of the results of the evaluation relative to the questions raised by that incident. After an initial description of the event, the incident had no further exploration in the report. The evaluation occurred after the incident secondary to the custody dispute. Dr. Plaud's report noted "Dr. Ansar denies that he assaulted his estranged wife or made a false report to the police department." This examiner did not see the foundation for an opinion about parenting ability in the report. This evaluation cannot be assigned much weight towards concerns about specific behavior, although some of the test responses are consistent with Dr. Ansar's responses to the present evaluation." (Resp. Ex. B at 8, quoting from Dr. Plaud's report, Resp. Ex. A at 3)

24. Although he was the proponent of Dr. Terhune's report and offered it to the Board as an exhibit in this hearing, Dr. Ansar disputed Dr. Terhune's conclusion, saying Dr. Terhune was chosen by his ex-wife, and adding that in presenting this report to the Board, he is "relying on the integrity of the psychological assessments. Assessments, not the entire report." (Tr. at 66)
25. There are other significant findings contained in Dr. Terhune's report that are relevant, beyond those brought forward by Dr. Ansar. Dr. Terhune in his summary writes:

Dr. Ansar comes to this evaluation with a challenge to his credibility. He reported to police (12.04) that Dr. Khan struck [their son], then recanted, and now stated that the incident occurred but he recanted under pressure from Dr. Khan. He harmed himself in front of Dr. Khan and [their son] (6.30.05) then told police that Dr. Khan had done the injury before recanting and telling police within several minutes of the initial false report that he had done it. He completed a psychological evaluation (8.6.05) and denied to the evaluator he had harmed himself.

This incident of 6.30.05 was dangerous and fear provoking for Dr. Khan and [their son]. It calls into question Dr. Ansar's judgment, impulse control, emotional control, and willingness to engage [his son] in his conflict with Dr. Khan. Dr. Ansar admits to his behavior in that incident and did so on that date even though he initially informed police that Dr. Khan had stabbed him. His attribution for his behavior as he reported it during this evaluation was that he was very emotionally distressed by the accusations Dr. Khan had made about

him. He denied a plan, but reported purchas[ing] the knife in a store with his son earlier that day. There has been no information from this evaluation to indicate that Dr. Ansar has discussed his behavior in this incident and attempted to understand his actions in a way to minimize any future risk that may be suggested by such behavior.

It is this evaluator's opinion that there have been insufficient attempts to address the clear questions raised by Dr. Ansar's behavior. While Dr. Ansar described his behavior on 6.30.05 as a poor choice secondary to stress, it is unsatisfactory to dismiss his conduct in this way. Such dismissal requires neither the underlying reasons for such risky behavior nor the impact on others, including [his son], to be satisfactorily explored in an effort toward prevention.

(Resp. Ex. B at 8)

Action by Other State Medical Licensing Boards

26. In addition to presenting the Board with the records showing these psychological test results, Dr. Ansar sought to introduce records from boards regulating the practice of medicine in Illinois, Arizona, Washington, Iowa, and Wisconsin, indicating the outcome of administrative actions in those states. The State's objection to the admission of these documents was sustained, but the record nevertheless includes Dr. Ansar's sworn testimony that in each case, the states found no cause to discipline Dr. Ansar based on the same criminal misdemeanor charges that are now before the Ohio State Medical Board. (Tr. at 33-51)
27. Dr. Ansar also presented substantial evidence demonstrating his good character and reputation in the relevant medical and professional communities. Included is a letter from the clinical director of the Department of Veterans Affairs, who described Dr. Ansar as "an asset to the Maplewood VA Outpatient Clinic" who "incorporates family values, ethnicity into each veteran's care [and] works well and closely with families, ancillary services, and is greatly respected by co-workers and colleagues." There is also a character reference letter from the director of the lab where Dr. Ansar works, in which he is described as "a team player and makes us all feel we are an important member of the team." In addition to a Post Commander's Distinguished Service Certificate awarded to Dr. Ansar in recognition of his service to the AMVETS Post in December 2003, there is a letter from United States Senator Mark Dayton commending Dr. Ansar for his "caring attitude, your concern for patients, and your willingness to serve." (Tr. at 52-55; Resp. Ex. J, K, K1).

Summary of Evidence Presented in Mitigation of the Offense

28. During the hearing, Dr. Ansar presented testimony in which he brought out several factors which he believes should be taken as mitigating the charge against him. These include:
- His claim that he has been licensed in other state jurisdictions and "no action has been taken against my licenses in those state medical boards";
 - His evidence showing good character, from testimonials supplied by individuals with whom he works at the Department of Veterans Affairs;
 - His claim that he has been working at the Minneapolis V.A. Medical Center for three years and seven months, "without any medical malpractice suites being filed against me [and] without any patient complaints";
 - His claim that the charge against him does not constitute a misdemeanor "involving moral turpitude";
 - His claim that his "judgment is completely intact . . . and I am not prone for criminal behavior or for morally despicable behavior";
 - His claim that he has no criminal history;
 - His claim that he "[does] not have any cognitive distortions," as demonstrated by test results described in a report by Dr. Joseph Plaud, shown on page 3 of Respondent's Exhibit A;
 - His claim that in another test report, based on the Millon Clinical Multi-Axial Inventory III, he "did not have a significant antisocial score measured through this objective protocol";
 - His claim that in another test report, based on the Personality Assessment Inventory, the author writes that "[t]here are no indications of significant psychopathology";
 - His assertion that in light of these and other test results, "this should suffice as far as mental health issues are concerned or issues of moral turpitude or morality are concerned, also, because these are intensive clinical tests proven and administered by a licensed psychologist." (Tr. at 21-24)

ANALYSIS

The record establishes without contradiction that Dr. Ansar was convicted of violating Minn. Stat. § 609.505 (2005) (falsely reporting crime). This offense is established whenever a person "informs a law enforcement officer that a crime has been committed or otherwise provides information to an on-duty peace officer, knowing that the person is a peace officer, regarding the conduct of others, knowing that it is false and intending that the officer shall act in reliance upon it." *Id.*

The record also establishes that, under the circumstances, the offense was a crime involving moral turpitude. Dr. Ansar is correct when he points to Ohio case law in support of his argument that "moral turpitude" is "characterized by 'baseness, vileness, or the depravity in private and social duties which man owes to his fellow man, or to society in general.'" (Tr. at 17) Dr. Ansar's conduct meets this definition. It is undisputed that he was engaged in a bitter custody dispute, that he had reacted angrily when he learned his wife reported his mistreatment of their son, that with premeditation he brought his son with him while he purchased a knife, confronted

his wife with the knife, and then stabbed himself in front of his son, with the intention of filing a police report falsely accusing his wife of the assault so as to improve his chances of gaining custody of their son in the pending domestic relations action.

The record establishes that Dr. Ansar deliberately lied to police as a means of punishing his wife and in an attempt to gain the upper hand in the custody dispute, and willfully placed his four-year-old son in the middle of a base and vile course of conduct, breaching the duty he owed to his family and to the community. He knew his statements were false and expected they would be relied upon by the police, as was the case, up to the moment he recanted.

Dr. Ansar is mistaken when he suggests the offense as committed does not fall within the definition of moral turpitude. While not all misdemeanors fall within that definition, there are some common threads that characterize such crimes. One thread is the presence of an act of false pretenses or fraud, particularly when it is perpetrated on the government. "Without exception, federal and state courts have held that a crime in which fraud is an ingredient involves moral turpitude."¹ Certainly false pretenses are involved in the misdemeanor charged here, where Dr. Ansar knew he was falsely making a claim that he intended the police to rely upon, knowing that if they did rely upon the claims his wife would be charged with a crime. In another case involving false statements, where a druggist presented a forged prescription for narcotics, the court held this was a crime involving moral turpitude, because it constitutes "an impairment of the administration of governmental functions even though there be no pecuniary loss to the Government."² Calling the police to deliberately misrepresent a stabbing, when the caller is the person who did the stabbing and is using the police as leverage in a child custody battle, constitutes an "impairment of the administration of governmental functions" so as to render the crime one of moral turpitude.

The parties in their respective closing statements correctly noted the decision of the Tenth Circuit Court of Appeals decision in *Davidson v. Ohio State Medical Board*,³ in which the court held that "the act of 'obstructing official business,' in violation of a statutory law, can be considered to be an act or behavior that violates moral sentiment or accepted moral standards of the community, and . . . would appear to be a morally culpable quality of fraudulent activity."⁴ Similarly, as the State noted, the Ohio Supreme Court has expressed the view that the deliberate falsification of documents under any circumstances "is immediately morally suspect."⁵ In that case, an attorney pled no contest to a misdemeanor charge of falsifying accounting records he filed in connection with two private adoptions. Notwithstanding substantial evidence of the attorney's good character, the Ohio Supreme Court nevertheless found such falsification to constitute moral turpitude and imposed an indefinite suspension.⁶

¹ *Jordan v. DeGeorge*, 341 U.S. 223, 227 (1951).

² *United States ex rel. Abbenante v. Butterfield*, 112 F. Supp. 324, 326 (D.C. Mich. 1953).

³ 1998 WL 226426 (10th Ohio App. Dist. 1998).

⁴ *Id.* at *9.

⁵ *Office of Disciplinary Counsel v. Bell*, 472 N.E.2d 1069, 1071 (Ohio 1984).

⁶ *Id.*

On the other hand, Dr. Ansar's reference to the decision in *Holycross v. State Board of Emergency Medical Services*⁷ is unavailing. In *Holycross*, the licensee had been convicted of trespass, attempted harassment by telecommunications, and harassment by telephone, after he sent an email to the fifteen-year-old daughter of a co-worker, who sought to discourage the relationship. In that case, the licensee did not appear at the administrative hearing and the court of appeals drew its conclusions entirely from the limited facts that were before it, facts which are wholly dissimilar to the fraudulent conduct attributed to Dr. Ansar. In that case, the licensee surreptitiously entered the bedroom of the co-worker's daughter and engaged in consensual sexual conduct. There the court found the circumstances did not constitute moral turpitude because the relationship between the licensee and the young woman was consensual. As such, the court's holding in *Holycross* lends no support to Dr. Ansar's claims.

Dr. Ansar also notes that other state medical boards have elected not to impose disciplinary sanctions against him based on this criminal conduct. The evidence suggests that Dr. Ansar self-reported the misdemeanor in several jurisdictions, none of which have elected to take disciplinary action against him. Each state, however, makes its own determination about the relative gravity that should be attributed to a given course of criminal behavior. Had the events leading to the conviction occurred in Ohio, there is little doubt that the acknowledged facts would support disciplinary action, at a level much more profound than a reprimand.

Dr. Ansar is correct, of course, when he complains that any discipline imposed by the Ohio Board would start a "chain reaction" in other states. Indeed, one of the inherent consequences of being licensed in multiple jurisdictions is the fact that instead of having one set of peers, the licensee invites review by multiple sets of peers. Accordingly, the risk of board action increases with every state a licensee is authorized to practice in. That does not, however, militate against imposing a substantive disciplinary sanction in Ohio. Rather, it serves as a caution to those who seek permission to practice in a number of jurisdictions, that their action must be consistent with the norms practiced in each of those jurisdictions. Having failed to abide by those norms in Ohio, Dr. Ansar properly may be punished here, notwithstanding contrary results in other jurisdictions.

Dr. Ansar's failure to conform to professional standards in Ohio should result in a substantial and determinate suspension. There is no need for further evaluations, nor would there be a benefit to a probationary period. Dr. Ansar has no ties to Ohio other than his license, and there is no reason to believe he needs to be monitored. Board evaluation and monitoring are both resource-intensive: they take Board and staff time, offer no promise of increasing public trust in Dr. Ansar's abilities, and are expensive, both for the State and the licensee. In this case, the costs of evaluation and monitoring simply outweigh the benefits that are likely to be attained through those sanctions. The record here further reflects that Dr. Ansar has received extensive psychological evaluation both at his own commission and at the court's direction. That record

⁷ 873 N.E.2d 423 (2d Dist. Ohio App. 2005).

provides sufficient information for this Board to impose a disciplinary suspension without the need for more tests or supervision.

There is, therefore, no basis for the Board to impose either further evaluation or a probationary period. The Board should, however, deprive Dr. Ansar of the authority to practice medicine and surgery in Ohio for a fixed period of time, as both a punitive measure and as an exemplary measure, preempting any public impression that the Board is indifferent to this kind of criminal behavior. While the applicable statute authorizes a number of lesser and greater sanctions (including permanent license revocation), the circumstances here call for a one-year suspension, without further conditions for reinstatement, and without a period of probation following the suspension.

FINDINGS OF FACT

1. The Respondent, Azber Azher Ansar, M.D., is licensed to practice medicine and surgery in Ohio under Certificate Number 35.078745.
2. In proceedings conducted in the First Judicial District Court of Dakota County, Minnesota, on December 12, 2005, the Respondent was convicted upon a plea of guilty to a misdemeanor charge of falsely reporting a crime, in violation of Minnesota Statute Section 609.505.
3. The circumstances attendant to the conviction include: (1) the Respondent was in a bitter custody dispute with his wife; (2) he learned his wife had filed a report accusing him of mistreating their son; (3) upon learning about this report he became angry and sought to retaliate against his wife; (4) he purchased a knife shortly before confronting his wife, and then in her presence and in the presence of their four-year-old son he stabbed himself with the knife; (5) he then falsely reported to the police that his wife had stabbed him; (6) he did so intending that she would be unjustly arrested and charged with a crime; and (7) he did so hoping to use the police and their actions as a means to obtain an advantage in the pending child custody and divorce proceedings.
4. When it received notice of Dr. Ansar's conviction, the Board set forth its allegations against the Respondent in a notice of opportunity for hearing dated August 9, 2006. In a written response received by the Board on September 8, 2006, the Respondent invoked his right to have an administrative review of the charge. In a letter dated September 8, 2006 the Board acknowledged its receipt of the Respondent's request for a hearing. The Board then set the matter for a hearing to commence on September 22, 2006, continued the hearing, appointed an administrative hearing examiner, and provided the parties with an opportunity to be heard on the charge in an evidentiary hearing conducted on October 30, 2006.

CONCLUSION OF LAW

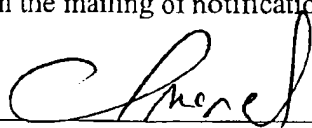
1. Because he holds a certificate to practice medicine and surgery in Ohio, the Respondent, Azber A. Ansar, M.D., is subject to the jurisdiction of the State Medical Board of Ohio in actions taken pursuant to R.C. Chapters 119 and 4731.
2. Upon receiving sufficient evidence to believe the Respondent violated a provision of R.C. Chapter 4731, the Board was authorized to take action with respect to the Respondent's certificate. The Respondent timely requested an evidentiary hearing before the Board took any final action based upon the Board's charge. Upon its receipt of the Respondent's request for a hearing, the Board set the matter for hearing in the manner provided for by the Administrative Procedure Act, and provided the Respondent with an opportunity to be heard, all in the manner provided for by state and federal statutory and constitutional law.
3. The Board may take disciplinary action against a person holding a certificate to practice medicine and surgery in Ohio upon sufficient proof that the person has been convicted of a "misdemeanor involving moral turpitude" as that clause is used in R.C. 4731.22(B)(13) (Anderson 2006).
4. The Respondent's conviction of the misdemeanor offense of filing a false police report, under the circumstances described in Finding of Fact No. 3 above, is a crime involving moral turpitude, as that term is used in R.C. 4731.22(B)(13).
5. Upon sufficient proof that the Respondent has violated any provision of R.C. 4731.22(B), as has been demonstrated in the foregoing findings of fact and conclusions of law, the Board, by an affirmative vote of not fewer than six of its members, shall to the extent permitted by law limit, revoke or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate, all pursuant to R.C. 4731.22(B).

PROPOSED ORDER

It is hereby ORDERED that:

SUSPENSION OF CERTIFICATE: The certificate of Azber Azher Ansar, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for a period of one year.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.



Christopher B. McNeil, Esq.
Hearing Examiner